

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance
(916) 322-5662

• • Administration • •
322-5660

• • Executive/Legal • •
322-5901

• • Enforcement • •
322-6441

• • Statements of Economic Interest
322-6444

March 26, 1985

David B. Rosenthal
Attorney at Law
145 Park Place
Point Richmond, CA 94801

Re: Your Request for Advice on
Behalf of James McMillan
Our File No. A-85-056

Dear Mr. Rosenthal:

This letter will confirm my previous telephone advice to you regarding Mr. James McMillan's committee and the candidacy of Mr. Ahmad Anderson. The facts are as follows:

FACTS

Mr. McMillan is presently an elected member of the Richmond City Council. He was elected two years ago and his term does not expire for another two years; consequently, he is not an active candidate in the current Richmond City elections. However, as an incumbent he is considered a "candidate" for purposes of the Political Reform Act^{1/} and he has a campaign committee. You have stated:

Mr. McMillan has an existing committee which is presently being used solely for the purpose of receiving contributions and making expenditures on behalf of Mr. Ahmad Anderson, a candidate running for City Council in the May election.

Mr. Anderson has no control or involvement over how the funds raised by the McMillan Committee are

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise specified. For a definition of "candidate" see Section 82007.

David B. Rosenthal
March 26, 1985
Page 2

spent, nor has he any influence on the monies being raised.

Mr. Anderson does not have a committee of his own nor is he raising any money or making any expenditures on his own behalf. All funds being expended on behalf of Mr. Anderson's candidacy for the City Council of Richmond are being raised, spent and fully controlled by the McMillan committee.

You have further advised me that Mr. Anderson is really a "puppet" candidate. Given the foregoing unique set of facts, our advice is as follows:

ANALYSIS

Mr. McMillan's committee is making independent expenditures on Mr. Anderson's behalf and must report them on a Form 465, Supplemental Independent Expenditure Report, pursuant to the election filing schedule for the May election. Mr. McMillan's committee will also have to disclose this activity on its Form 490 filings pursuant to the standard filing schedule contained on Page 6 of the enclosed Campaign Manual. For specific assistance as to when statements are required to be filed, you should consult the enclosed Campaign Manual or contact the City Clerk's Office or our Political Reform Consultant Mary Ann Kvasager, at (916) 322-5662.

CAVEAT

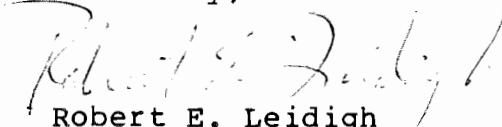
As I indicated previously, this advice depends on the accuracy of your description of the factual situation. I bring this to your attention because it is extremely unusual for any candidate for public office to run no campaign on his own behalf and simply to allow someone else to do it for him, without any input at all. If Mr. Anderson has any control or input over the expenditures, including what the content of any advertisements, mailings, brochures, fliers, etc., etc., will be, if the expenditures are made with the cooperation, consultation, or suggestion of Mr. Anderson, or in coordination or concert with Mr. Anderson, then Mr. McMillan's committee is not making independent expenditures -- but is making in-kind contributions to Mr. Anderson (which Mr. Anderson must report).^{2/} (See our regulation, 2 Cal. Adm. Code Section 18215, copy enclosed.)

^{2/} See our previous letter to James McMillan, dated February 13, 1985, copy enclosed.

David B. Rosenthal
March 26, 1985
Page 3

If Mr. Anderson has received in-kind contributions from Mr. McMillan's committee, Mr. Anderson will have to file pre-and post-election candidate campaign statements on dates specified for the May election, list the total amount spent on his behalf by Mr. McMillan's committee on Schedule C and itemize all monetary or in-kind contributors of \$100 or more. Again, you may wish to consult with the City Clerk's Office or with our Technical Assistance and Analysis staff.

Sincerely,



Robert E. Leidigh
Counsel
Legal Division

REL:plh
Enclosure
cc: Mr. Hayden, Richmond City Clerk

MAR 4 2 48 PM '85

March 1, 1985

A 85-056

Fair Political Practices Commission
P.O. Box 807
1100 K Street
Sacramento, Ca. 95814

Attn: Mary Ann Kvasater

Dear Ms. Kvasater:

This office represents Mr. James McMillan, who is presently an elected City Council member of the City of Richmond. Mr. McMillan is not running for re-election at the present time. Mr. McMillan has an existing committee which is presently being used solely for the purpose of receiving contributions and making expenditures on behalf of Mr. Ahmad Anderson, a candidate running for City Council in the May election.

Mr. Anderson has no control or involvement over how the funds raised by the McMillan Committee are spent, nor has he any influence on the monies being raised.

Mr. Anderson does not have a committee of his own nor is he raising any money or making any expenditures on his own behalf. All funds being expended on behalf of Mr. Anderson's candidacy for the City Council of Richmond are being raised, spent and fully controlled by the McMillan committee.

Please advise what reporting obligations the McMillan committee has and what, if any, reporting obligations Mr. Anderson has.

Please respond to this office. Thank you for your consideration.

Sincerely,



DAVID B. ROSENTHAL

DBR:c

cc: James McMillan

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance
(916) 322-5662

• • Administration • •
322-5660

• • Executive/Legal • •
322-5901

• • Enforcement
322-6441

April 22, 1985

David B. Rosenthal
145 Park Place
Point Richmond, CA 94801

Re: Your Letter of April 10, 1985
Regarding Our Letter of
March 26, 1985
Our File No. A-85-056

Dear Mr. Rosenthal:

In your letter of April 10, 1985, you disagreed with the statement in my Advice Letter of March 26, 1985, that Mr. Anderson was a "puppet" candidate. Although in our telephone conversation you used that word to describe Mr. Anderson's candidacy, you now have told me that either you did not intend the word "puppet" to be taken literally or that, if you did, it was a mistake. You have inquired whether our advice depended on your use of the word "puppet," in reference to Mr. Anderson's candidacy.

The advice letter addressed the entire situation you described -- that of a candidate who has nothing whatever to do with raising contributions or making expenditures for his own campaign. However you characterize this situation, the advice remains the same. Nevertheless, since you have stated that Mr. Anderson was not merely a "puppet" candidate, I would strongly advise you to review very carefully the "Caveat" portion of my March 26, 1985, advice letter.

Very truly yours,

Handwritten signature of Robert E. Leidigh in cursive script.
Robert E. Leidigh
Counsel
Legal Division

REL:plh

APR 17 8 37 AM '85

April 10, 1985

Robert E. Leidigh
Counsel
Legal Division
State of California
Fair Political Practices Commission
P. O. Box 807
Sacramento, CA 95804

Dear Mr. Leidigh:

I am in receipt of your letter of March 26, 1985. You have misstated and misquoted the information that I have given you. You indicate in the second full paragraph that I advised you that Mr. Anderson is really a "puppet" candidate. This information is inaccurate and I have never advised you of such a fact. To the extent that your analysis is dependent upon the characterization of Mr. Anderson's candidacy as a "puppet" candidate, you are advised to reconsider and revise your advice.

Please advise me forthwith whether your analysis and interpretation of the requirements for Mr. McMillan and Mr. Anderson are different based on an accurate assessment of the facts as set forth in the information prior to the paragraph where you have misstated my representations.

Sincerely,



DAVID B. ROSENTHAL

DBR:gs

cc: Mr. Hayden
Richmond City Clerk